

### Judge Mathias, cont.

topics to attorneys and judges. As a member of the Judicial Technology and Automation

Committee, he helped select the Odyssey Case Management System that brought the management of state court records into the 21st Century.

Judge Mathias is a longtime supporter of *We the People*, a national civics education program sponsored in Indiana by the Indiana Bar Foundation. He coaches high school *We the People* teams in Indiana's 5th Congressional District and helps organize *We the People* competitions in the 3rd Congressional District.

In 2010, he received the Indiana Bar Foundation's William G. Baker Civic Education Award for his work in civics education.

Judge Mathias has been married for more than 36 years and is the proud father of two sons who teach at the high school level. His wife, Carlabeth, is a private practice counselor for children and families and a consultant to schools throughout Indiana.

Judge Mathias enjoys Macintosh computers, technology in general and photography. He also enjoys spending many Saturdays during the school year helping to build theatrical sets for Hamilton Southeastern High School.

### Attorneys for the Parties

#### For the Appellant

**Jesse Drum** is from Burlington, KY. He earned a B.A. in English Literature from Northern Kentucky University in 2009 and graduated from Indiana University Maurer School of Law in Bloomington in 2013. During law school, he was a Notes and Comments Editor on the Indiana Law Journal. His student note, "*Oh, it is you, is it?*" *Closing the Door on Reasonable Resistance to Unlawful Police Entry in Indiana*, was published in the ILJ.

Jesse joined the Office of the Indiana Attorney General as a law clerk in Criminal Appeals in May 2012. In February 2014, he was promoted to the position of Deputy Attorney General in the same division. This will be his fifth oral argument before the Court of Appeals. Jesse spends most of his free time working on his new house. He occasionally golfs.

#### For the Appellee

**Mark Small** is from West Middleton, IN. He resides and has his law office in Broad Ripple. He received a BA in Political Science from DePauw University in 1978. He was on staff, during the day, at Northwestern University School of Law 1982-85. He graduated from Indiana University School of Law-Indianapolis in 1989 where he was a member and coach of the ABA Moot Court national team. His practice has a primary focus on appeals, post-conviction actions and questions of constitutional law. He is admitted to practice before the State and federal courts in Indiana; the U.S. Court of Appeals for the Seventh, Ninth, and District of Columbia Judicial Circuits; and the U.S. Supreme Court. He is death penalty-certified.

He has had three novels published, performed stand-up comedy during the evenings in Chicago 1982-85, and hosts a weekly podcast, "Civil Discourse Now."

### Judge Bradford, cont.

Judges Criminal Policy Committee and the Board of Directors of the Indiana State Judicial Conference.

He is a Senior Distinguished Fellow of the Indianapolis Bar Association and has taught ICLEF seminars on trial practice for more than 10 years. From 2005 to 2007, Judge Bradford hosted "Off the Bench with Judge Cale Bradford," a legal commentary program on Marion County's government access network. He also served on the Judicial Technology and Automation Committee (JTAC), helping to draft the state judiciary's policies on technology and electronic case management. Judge Bradford currently serves as an adjunct instructor in forensic science and the law at Indiana University Purdue University Indianapolis.

Judge Bradford is a former director of Indianapolis's John P. Craine House, a residential alternative to incarceration for women offenders with pre-school-aged children. Judge Bradford regularly attends St. Luke's United Methodist Church. He and his wife, a full-day kindergarten teacher, have five children.

### Judge Crone, cont.

Judge Crone was retained on the Court by election in 2006. He is married and has three daughters – a practicing attorney, an anesthesiologist and a doctor of psychology.

### Fast Facts about the Court of Appeals

■ The Indiana General Assembly created a temporary appellate court in 1891 and a permanent Appeals Court in 1901. In 1971, voters approved a constitutional amendment making the Court of Appeals of Indiana a constitutional court.

■ The Court hears cases in three-judge panels that rotate three times per year. Cases are never assigned to a single judge, and all cases are randomly assigned.

■ Including judges serving senior terms, 135 judges have served the Court since its inception. Their photos are displayed against the north wall of the Statehouse on the fourth floor.

■ Because the Indiana Constitution provides "an absolute right to one appeal," the Court of Appeals considers more than 2,000 cases each year. The Indiana Supreme Court need not consider every appeal, so it decides about 100 cases per year.

■ Eight women and three African Americans have served on the Court. Current Chief Judge Nancy H. Vaidik is the court's second female chief judge.

■ The court decides most cases without holding oral argument. In 2013, for example, the court issued 2,058 majority opinions and heard 71 oral arguments.

■ The court considers and decides about twice as many criminal cases as civil cases each year.

■ The Court of Appeals affirmed trial court decisions in 80 percent of its cases in 2013, including 86 percent of criminal cases; 91 percent of post-conviction relief petitions; and 63 percent of civil cases.

## SYNOPSIS

After noticing suspicious activity on the pseudoephedrine purchase logs of a local drug store, a Perry County sheriff's deputy ran a criminal history check on one of the purchasers, William Stevens.

Because the check revealed that Stevens had a Florida conviction for "Poss Meth W Intent to Sell Manufacture Deliver," the deputy believed that it was illegal for Stevens to purchase pseudoephedrine. When Stevens later attempted to purchase more pseudoephedrine at the same drug store, the police were notified and Stevens was arrested.

Stevens admitted that he had approximately one gram of methamphetamine in his pocket. Stevens' fiancée later consented to a search of their home and evidence of methamphetamine manufacturing was discovered inside the residence.

The State charged Stevens with possession of methamphetamine, possession of paraphernalia, possession of a precursor by a methamphetamine offender, and maintaining a common nuisance.

At trial, Stevens filed a motion to suppress all evidence seized by police and statements he made to police, arguing that his prior conviction in Florida was not for methamphetamine possession but for Alprazolam possession and that, as a result, no probable cause existed for his arrest.

The trial court granted Stevens' motion to suppress. The charges against Stevens were subsequently dismissed.

The State appeals and argues that the trial court abused its discretion in granting Stevens' motion to suppress, because the officers acted reasonably in arresting Stevens based on the information they had at the time, even though that information turned out to be incorrect.

The State also argues that Stevens' fiancée's consent to search their home was an intervening act that made the evidence admissible.

**Court of Appeals  
Mission Statement:**  
"To serve all people by providing equal justice under law."

## Court of Appeals of Indiana

*Hearing oral argument at  
Taylor University, Upland  
Friday, April 24, 2015 @ 1 p.m.*



### *State v. Stevens*

62A01-1406-CR-268

*On Appeal from Perry Circuit Court  
The Honorable Mary Lucille Goffinet, Judge*



# Glimpses of Indiana History

## Every docket tells a story

*Indiana Appellate Court Reports, Vols. 1, 2, and 3*, include the complete written opinions of several hundred cases decided by the Court of Appeals in its first two terms. Naturally, the legal issues before the court were many and varied. But the underlying facts, taken together, paint a vivid picture of Indiana’s economy and society circa 1891 – the same year James Naismith invented basketball.

**Agriculture** was an economic mainstay, and even city residents maintained livestock. In *The Noblesville Gas and Improvement Company v. Teter*, the court affirmed damages of \$60 against the gas company for the death of Teter’s cow after it fell into an open gas line trench.

The opinion notes that by county and city ordinance, “cows were permitted to run at large within the city (of Noblesville) within the day time.”

**Railroads** were frequent litigants. *Vols. 1, 2, and 3* record 34 railroad-related appeals, many involving damages to livestock, but also other issues. In a disputed-fare case from Greene County, the court ruled for the railroad but admonished the company “if unnecessary force was used in expelling the appellee from the train.”

*Vol. 1* also includes two cases involving **The Western Union Telegraph Co.** One of them, *Western Union v. Trumbull*, cited an 1885 law that anticipates current legal and policy arguments about **Internet neutrality**.

The relevant passage of the law said that telegraph companies “shall in no manner discriminate in rates charged, or words or figures charged for, or manner or conditions of service between any of its patrons, but shall serve individuals, corporations and other telegraphic companies with impartiality.”

Then as now, fraught **domestic relations** occupied a significant share of the docket.

In *Story v. Story*, the court affirmed judgment against a father who’d been sued by his daughter for nonpayment of \$3 a week for house and farm work.

*Marshall et al v. Bell* involved a father’s promissory note for support and maintenance of a “bastard child.”

And in *Adams v. Main*, the court affirmed a trial court’s judgment that the appellant had alienated the affections of the appellee’s wife, even without proof of adultery. Such proof was not required, per the Appeals Court.

**Contract disputes** comprised a large part of the docket, too, and some of them include telling details about prevailing wages and prices.

In *Greene v. McIntire et al*, the court affirmed judgment against New York City grain merchants who had contracted to buy 20,000 bushels of “grade No. 2 red wheat” from a Knox County farmer. Price: \$14,891, or 74 cents per bushel. (In December 2013, March 2014 wheat deliveries were trading at \$6.39/bushel at the Chicago Board of Trade.)

*Orme v. Cooper*, a Floyd County case, reported the value of 571 pounds of harness leather as \$114.20, or 20 cents per pound.

Mr. Trumbull, the appellant in the *Western Union* case cited above, paid 25 cents for his telegram.

Another case put the value of a Warren County house, lot, furnishings, and various materials and repairs at \$531.85.

*Vols. 1, 2, and 3* include just **18 criminal appeals** (all others assigned to the Supreme Court), many involving crimes of vice such as gambling, liquor violations and prostitution (referred to in one case as “a certain house of ill fame” in Valparaiso).

The court affirmed the trial court’s decision 13 times, or 72 percent.

## APPEALS ON WHEELS

The Court of Appeals hears oral arguments across Indiana to enable Hoosiers to learn more about the judiciary’s indispensable role in Indiana government. Since its 2000-2001 centennial, the court has held more than 400 “traveling oral arguments” at high schools, colleges, law schools and other venues. This will be the court’s 15th *Appeals on Wheels* event this year.

## Justice, quoted

The complete independence of the courts of justice is peculiarly essential in a limited Constitution.

- Alexander Hamilton, *Federalist 78*

It is emphatically the province and duty of the Judicial Department to say what the law is. Those who apply the rule to particular cases must, of necessity, expound and interpret that rule. If two laws conflict with each other, the Courts must decide on the operation of each.

- Chief Justice John Marshall

Whatever disagreement there may be as to the scope of the phrase "due process of law" there can be no doubt that it embraces the fundamental conception of a fair trial, with opportunity to be heard.

- Justice Oliver Wendell Holmes, Jr.

The ultimate touchstone of constitutionality is the Constitution itself and not what we have said about it.

- Justice Felix Frankfurter

Law matters, because it keeps us safe, because it protects our most fundamental rights and freedoms, and because it is the foundation of our democracy.

- Justice Elena Kagan

Most high courts in other nations do not have discretion, such as we enjoy, in selecting the cases that the high court reviews. Our court is virtually alone in the amount of discretion it has.

- Justice Sandra Day O'Connor

Restriction on free thought and free speech is the most dangerous of all subversions. It is the one un-American act that could most easily defeat us.

- Justice Thurgood Marshall

The day you see a camera come into our courtroom, it's going to roll over my dead body.

- Justice David Souter

# Today’s Panel of Judges



The Honorable  
Terry A. Crone

St. Joseph County

**Terry A. Crone** was appointed to the Court of Appeals March 8, 2004 by Governor Joseph E. Kernan. Judge Crone was raised in South Bend. He graduated cum laude from DePauw University with a double major in political science and history in 1974 and graduated from Notre Dame Law School in 1977.

Judge Crone practiced law for nine years, concentrating in areas of civil practice, and served as the St. Joseph County Attorney from 1981 to 1986. In 1986, he was appointed Magistrate of the St. Joseph Circuit Court, where he served until his appointment as Judge of the St. Joseph Circuit Court in 1989.

Judge Crone is a past President of the St. Joseph County Bar Association and a former member of the Board of Managers of the Indiana Judges Association, the Supreme Court Committee on Character and Fitness, and the Alternative Dispute Resolution Committee of the Indiana Judicial Conference.

Judge Crone is a past Chair of the Appellate Practice Section of the Indiana State Bar Association and is a member of the St. Joseph County, Indianapolis, Marion County, Indiana State and American Bar Associations, the American Judicature Society, and the Phi Delta Phi Honorary Legal Society.

Judge Crone is a frequent speaker at legal education programs. He helped found a program in South Bend to familiarize minority high school students with the law and related fields and was a founding member of the South Bend Commission on the Status of African-American Males and the St. Joseph County Coalition Against Drugs.

As Circuit Court judge, he also initiated the first Spanish-speaking program for public defenders in St. Joseph County.

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The Honorable  
Paul D. Mathias

Allen County

**Paul D. Mathias** is a fifth-generation Hoosier who deeply believes that Indiana is a special place to live. He is honored to serve on the Court of Appeals, where he strives daily to reflect and protect Hoosier values within the law.

Judge Mathias practiced law in Fort Wayne, concentrating in construction law, personal injury, and appellate practice. He was appointed Referee of the Allen County Small Claims Court in 1985 and served as Judge of the Allen Superior Court from 1989-2000 when he was appointed to the Court of Appeals. In 2002 and 2012, he was retained by election to the court.

Judge Mathias’s professional achievements are rooted in a strong educational foundation. He attended the public schools in Fort Wayne, where he was a National Merit Finalist and scholarship recipient. In 1976 Judge Mathias graduated *cum laude* from Harvard University with a bachelor’s degree in General Studies, concentrating in Government. He earned his law degree in 1979 from Indiana University School of Law-Bloomington, where he was a member of the Sherman Minton Moot Court Team and the *Order of Barristers*.

Judge Mathias was an officer of the Indiana Judges Association from 1993-1999 and its president from 1997-1999. He is deeply honored to be one of only 92 Hoosiers to receive the Centennial Service Award from the Indiana State Bar Association, and he was named a Sagamore of the Wabash by two governors. Judge Mathias is keenly interested in the intersection of law and technology and often consults and speaks on tech

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The Honorable  
Cale J. Bradford

Marion County

**Cale J. Bradford** was appointed to the Court of Appeals by Governor Mitch Daniels and took his seat on August 1, 2007.

Prior to his elevation to the Court of Appeals, Judge Bradford served for more than 10 years as Judge of the Marion Superior Court, seven years in the criminal division and three in the civil division. He was twice elected presiding judge by his colleagues.

During this tenure, Judge Bradford chaired the Marion County Criminal Justice Planning Council, a group of local elected and appointed officials who recommended ways to improve the county’s response to criminal justice problems, including jail overcrowding, staffing, and budget issues. His efforts led to the end of 30 years of federal oversight of the Marion County Jail and to security improvements at the county’s Juvenile Detention Center.

Before joining the bench, Judge Bradford served in the Marion County Prosecutor’s Office for two years, overseeing a staff of more than 100 attorneys. For five years, he was an Assistant United States Attorney for the Southern District of Indiana, prosecuting major felony drug trafficking cases. He engaged in the private practice of law from 1986 to 1991, and served as both a deputy prosecutor and public defender during his career.

A native of Indianapolis, Judge Bradford received a B.A. in labor relations and personnel management from Indiana University-Bloomington in 1982 and his J.D. from Indiana University-Indianapolis in 1986. He is the Court of Appeals' liaison to the Indiana Judges Criminal Instructions Committee, which provides guidance to judges on jury instructions in criminal cases, and a former member of both the Indiana

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